payee. Without further arrangement the plaintiff was credited with the amount, and bank A. was in turn credited by its correspondent bank B. Before the check was paid by bank C. on which it was drawn, bank A. became insolvent, its account with bank B. at the time being overdrawn. *Held*, as the plaintiff was credited with the deposit against which he might have drawn, the property in the check vested in bank A., and therefore a perfect title was conferred upon bank B. *Ditch et al.* v. *Western Nat. Bk.*, 29 Atl. Rep. 72, 138 (Md.).

It is submitted that the dissenting opinion is by far the better one. The indorsement on the check "for deposit to the credit of" the payee was notice to bank B. that bank A. held the check in trust for the purpose of collecting the proceeds and depositing them to the credit of the plaintiff. Such an indorsement is not absolute, and does not pass the beneficial interest in the check till it is paid. Bank B. was simply in the position of a sub-trustee. The fact that the depositor is credited with the amount, and allowed to draw against it, is a mere gratuitous privilege, and not conclusive evidence that title passes absolutely. If the check had been dishonored, the plaintiff would have unquestionably been charged. Ames Cases on Trust, pp. 11, 17; Daniel on Neg. Instr. (4th ed.), § 340 *a*, *et seq.*

WILLS — WITNESSES — COMPETENCY. — The husband of one legatee and the wife of another were attesting witnesses. The question was whether the statute, which declares that "any beneficial devise, legacy, or interest" to a subscribing witness is void, renders the legacies to the wife and husband of the subscribing witnesses void, and leaves the will good, or renders the whole will bad. *Held*, the whole will is bad. *Fisher* v. *Spence*, 37 N. E. Rep. 314 (Ill.).

This is a case of first impression in this jurisdiction, and the matter is well discussed. The court recognizes that there are two sides to the question, and prefers to adopt the Massachusetts view. *Sullivan* v. *Sullivan*, 106 Mass. 474. This view, of course, is obtainable by strict construction of the statute; but the contrary doctrine, which obtains in New York and Maine (*Jackson* v. *Wood*, 1 Johns. 163; *Winslow* v. *Kimball*, 25 Me. 493), appeals to one's common sense to so great an extent that it seems odd a court, not bound by precedent, would refuse to adopt it.

REVIEWS.

A TREATISE ON THE LAW OF RES JUDICATA, INCLUDING THE DOCTRINES OF JURISDICTION, BAR BY SUIT, AND LIS PENDENS. By Hukm Chand, M. A. London: William Clowes and Sons; Edinburgh: William Green and Sons. 1894.

A principal object of the author of this interesting treatise (who is Chief Judge of the City Court and member of the Legislative Council of Hyderabad, Deccan), is "to show the great advantage to the administration of justice, of the knowledge of contemporary laws and decisions in other countries." This object has been most faithfully and successfully carried out. An enormous mass of authority has been intelligently gathered from the reports and from approved text-writers of England and the United States, as well as from the states of British India; and the advantage thereby gained is surely no slight one. Four thousand cases are cited on this rather narrow branch of the law, of which more than half appear to be American cases.

In order to effect his design of making the Indian and American cases known in each other's courts, the author has stated the facts more fully than is usual in books of the sort, and has given many well-chosen extracts from the opinions of the courts. The result is a mass of material almost bewildering in amount. One realizes as never before the extent of sway of the English law. The House of Lords, Texas, and Allahabad jostle one another in the foot-notes, while Hindoo widows, the *Shebait* of

an idol, and one's "right to take a *cupola* to a certain temple and to place it upon the car of the idol, and to take a *nandicola* with *tom toms* from his house to the temple, and to offer the first cocoanut to the idol" are in question on almost the next page to a quotation from Vanfleet on Collateral Attack, and from an opinion of Folger, J.; and the same principles of law govern all.

That a foreigner should deal with so many diverse American authorities as an American would do is not to be expected; and Judge Chand rightly estimates his authorities only at their intrinsic value. The Supreme Courts of the United States, Nevada, Massachusetts, and New York, the New York Court of Appeals, and the editorial force of the American and English Encyclopædia of Law seem to be stars of equal magnitude in our legal firmament, when seen from the longitude of Hyderabad. And we must thank the author for showing us how slight the difference is, in real weight of legal reasoning, between opinions delivered in our courts of high authority and in those usually less approved.

The chief defect of the book seems to be a failure thoroughly to digest the material. We get great light by a comparison of the American and Indian cases; but the different divisions of the subject do not illuminate each other as much as they might perhaps be made to do. Nor are the author's own conclusions always sufficiently emphasized; we are left to deal with the cases as best we can, without that help from general knowledge of the subject which it is the jurist's chief duty to supply. In some places apparently contradictory statements of the law are made and supported by authority, with no attempt to reconcile the cases. This fault seems however to be as rare as is customary in books on the law.

In one or two cases when a principle is put forward it is impossible to support it; as where, for instance (at Sect. 148), the author adopts the continental notion that "the domicile of the debtor (in its wide sense) is generally to give the law of the obligation." This continental doctrine has probably never been adopted by a court of common law, — fortunately, for we have enough trouble with the dispute between *lex loci contractus* and *lex loci solutionis*.

On the whole, the book is one to be cordially welcomed; and one that may well find a wide use in our country. The mere fact that the decisions of three great nations are brought together is enough to secure the work that place in legal literature which is due to useful originality and broad learning. But besides this, it gives to the American lawyer a collection of American authorities equal to that contained in any work on the subject by an author of his own country; and to the student of law it presents a fascinating picture of the application of the common law to new and strange circumstances. J. H. B.

THE HISTORICAL DEVELOPMENT OF THE JURY SYSTEM. By Maximus A. Lesser, A.M., LL.B., Rochester: Lawyers' Co-operative Publishing Company. 12 mo. pp. 274.

The true student of the law to-day does not rest contented with a mere acquaintance with so important a legal institution as the jury as it exists in its present form. He demands also a knowledge of the times which gave it birth, and the circumstances under which it was welded into its present shape. To trace this development, to bring clearly before the reader the best views on the history of this institution, is the object of